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FIRST AMERICAN TITLE COMPANY OF
NEVADA

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

LAWRENCE E. ORMSBY and
CINDY J. ORMSBY,

Debtors.

Case No. 05-28840-A-7

Chapter 7

FIRST AMERICAN TITLE
COMPANY OF NEVADA, a
Nevada Corporation,

Plaintiff,

v.

LAWRENCE E. ORMSBY,

Defendant.

Adversary Proceeding No.

FIRST AMERICAN TITLE COMPANY OF NEVADA'S COMPLAINT
TO DETERMINE DEBT NONDISCHARGEABLE
[11 U.S.C. §§ 523(a)(4) and (a)(6)]

Plaintiff, FIRST AMERICAN TITLE COMPANY OF NEVADA ("First
American" or "Plaintiff"), alleges as follows

05-02439-A

COMPLAINT
PLAINTIFF: FIRST AMERICAN TITLE COMP
DEFENDANT: LAWRENCE ORMSBY
JUDGE: HON. M. MCMANUS
RELATED CASE: 05-28840

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EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION sfas

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1 This database allows First American to conduct its title searches faster and at less cost than if it
2 had to rely on the official public records. The database is maintained at three title plants (the
3 "Title Plants") in Washoe County and on microfiche in a non-public area at First American (the
4 "Title Plant Microfiche") and constitutes First American's trade secrets valued in excess of one
5 million dollars.

6 10. In the spring of 2000, the Debtor began soliciting First American's
7 employees to assist him in opening a new title company called Inter-County Title Company,
8 which was owned by the Debtor. Among these employees was Joseph McCaffrey, a title officer
9 and manager at First American who had access to all of First American's records, including the
10 Title Plant Microfiche. The Debtor was aware that having access to the Title Plant Microfiche
11 could make Inter-County Title immediately competitive, thus, he conspired with McCaffrey to
12 misappropriate and, did in fact, misappropriate copies of the Title Plant Microfiche from First
13 American without First American's consent.

14 11. In August 2000, First American filed a complaint in Nevada state court (the
15 "State Court") against the Debtor, McCaffrey and Inter-County Title for, *inter alia*,
16 misappropriation of trade secrets, conspiracy and conversion (the "State Court Case").

17 12. On May 4, 2005, and after a lengthy bench trial, the State Court entered its
18 Findings Of Fact, Conclusions Of Law and Judgment (the "Judgment") in the State Court Case.
19 A true and correct copy of the Judgment is being filed concurrently as Exhibit A to First
20 American Title Company of Nevada's Complaint to Determine Debt Nondischargeable.

21 13. As set forth more fully in the Judgment, the State Court found, *inter alia*,
22 that the defendants, including Ormsby, had willfully and maliciously misappropriated the Title
23 Plant Microfiche from First American for use by Inter-County Title Company.

24 14. Based on its findings, the State Court entered judgment (the "Judgment")
25 in favor of First American and against the defendants, jointly and severally, for \$141,500 in
26 compensatory damages, \$283,000 in punitive damages, \$47,593.83 in prejudgment interest, per
27 diem interest from January 1, 2005 through May 2, 2005 at the rate of \$28.11, plus costs and
28 attorneys fees in an amount to be determined by the State Court.

1 FIRST CLAIM FOR RELIEF (TO DETERMINE DEBT NON-DISCHARGEABLE

2 PURSUANT TO 11 U.S.C. § 523(a)(4))

3 15. First American repeats and re-alleges each and every allegation contained
4 in paragraphs 1 through 14, above, as if fully set forth herein.

5 16. As set forth more fully above, the Debtor fraudulently and wrongfully
6 misappropriated the Title Plant Microfiche from First American with the intent to convert the
7 Title Plant Microfiche for his company's use without First American's consent.

8 17. The sums awarded to First American and against the Debtor pursuant to the
9 Judgment constitute a debt for larceny that is non-dischargeable under 11 U.S.C. § 523(a)(4).

10 SECOND CLAIM FOR RELIEF (TO DETERMINE DEBT NON-DISCHARGEABLE

11 PURSUANT TO 11 U.S.C. § 523(a)(6))

12 18. First American repeats and re-alleges each and every allegation contained
13 in paragraphs 1 through 17, above, as if fully set forth herein.

14 19. The Debtor fraudulently and wrongfully misappropriated the Title Plant
15 Microfiche from First American with the intent to convert the Title Plant Microfiche for his
16 company's use without First American's consent. The Debtor was aware that the
17 misappropriation would injure First American and was without just cause or excuse.

18 20. The sums awarded to First American and against the Debtor pursuant to the
19 Judgment constitute a debt for willful and malicious injury that is non-dischargeable under 11
20 U.S.C. § 523(a)(6).

21 REQUEST FOR JUDGMENT

22 Based on the foregoing, First American requests judgment be entered against the
23 Debtor as follows:

24 (a) That the Court determine that the sums awarded to First American and against
25 the Debtor pursuant to the Judgment constitute a debt (the "Debt") that is non-dischargeable
26 pursuant to 11 U.S.C. § 523(a)(4);

27 (b) That the Court determine that the Debt is non-dischargeable pursuant to
28 11 U.S.C. § 523(a)(6);

1 (c) For judgment against the Debtor in an amount according to proof;
2 (d) For pre-judgment interest on the Debt at the maximum legal rate;
3 (e) For post-judgment interest on the Debt at the maximum legal rate until the
4 Debt is paid;
5 (f) For attorneys' fees and costs according to proof; and
6 (g) For such other and further relief as the Court deems just, equitable and
7 appropriate under the circumstances.

8 Dated: October 27, 2005

MILLER, STARR & REGALIA

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10 By: 

11 ETHAN K. FRIEDMAN
12 Attorneys for Plaintiff
13 FIRST AMERICAN TITLE COMPANY
14 OF NEVADA
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